



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

Paper No. 32

SIM AND MCBURNEY  
330 UNIVERSITY AVENUE  
SUITE 701  
TORONTO, ONTARIO M5G 1-R7

**COPY MAILED**

**SEP 17 2001**

In re Application of:  
SANHUEZA, SONIA E., et al.  
Application No. 08/286,189  
Filed: 08/05/1994  
Attorney Docket No. MISMS1038348

**OFFICE OF PETITIONS**

**ON PETITION**

This is a decision on the petition filed on August 10, 2001. Said petition requests reconsideration of the June 11, 2001 dismissal of Petitioner's March 7, 2001 petition under 37 C.F.R. §1.137(a). This petition also appears to request that, in the alternative, the office revive this abandoned application under 37 C.F.R. §1.137(b).

This application became abandoned for failure to timely reply to the final office action, mailed on June 21, 2000. A shortened statutory period of three (3) months was set for replying. That period lapsed without reply, rendering the application abandoned on September 22, 2000. Petitioner attempted a reply on December 22, 2000 by filing a request for a three month extension of time and a notice of appeal. However, since that date was outside of the maximum extendable period for replying, the extension request was denied and the application remained in an abandoned status.<sup>1</sup>

Petitioner first filed a petition under 37 C.F.R. §1.137(a) on March 7, 2001. That initial petition was dismissed by a decision dated June 11, 2001 for failure to meet the requirements of 37 C.F.R. §1.137(3) and (4) for the filing of a grantable petition under that rule. A two month deadline was set for replying.

Petitioner timely filed this reply on August 10, 2001 requesting reconsideration of the June 11, 2001 decision and apparently, in the alternative, revival under 37 C.F.R. §1.137(b).

*Reconsideration under 37 C.F.R. §1.137(a).*

Petitioner has requested reconsideration without giving any new reasons for the Commissioner to consider. Accordingly, the request for reconsideration is granted to the extent that the request has been reconsidered. However, because no new reason has been given for a reversal of that decision, the June 11, 2001 decision stands.

*Petition under 37 C.F.R. §1.137(b).*

The reply will be assumed to be the previously filed notice of appeal. All other requirements for filing a grantable petition under 37 C.F.R. §1.137(b) have been met. Accordingly, *this petition is granted*.

---

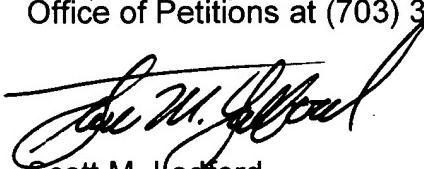
<sup>1</sup> 35 U.S.C. §133.

**The Notice of Appeal filed on December 22, 2000 has been entered and made of record. Accordingly, the two (2) month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.**

The terminal disclaimed filed with this petition has been entered and made of record. Effective September 8, 2000, 37 C.F.R. §1.137(c)(1) has been added to state that a terminal disclaimer filed pursuant to this rule must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: 1) the period of abandonment of the application; or 2) the period extending beyond twenty years from the date on which the application for the patent was filed in the United States, or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121 or 365(c), from the date on which the earliest such application was filed. 65 Fed. Reg. 54,674 (2000). Accordingly, the period of the terminal disclaimer will be equivalent to the lesser of period (1) or (2), as noted above, for this application.

This file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.



Scott M. Ledford  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects